



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable W. B. Baker
County Attorney
Coleman County
Coleman, Texas

Dear Sir:

Opinion No. O-1844
Re: Must the local board re-
establish the White Chapel
Elementary School District,
and would the county board of
school trustees have any auth-
ority in the matter?

We are in receipt of your letter of August 19, 1939,
which reads as follows:

"Centennial Rural High School District contained four elementary districts. By authority of Article 2922F of the school laws of Texas, the following action was taken by the County Board of School Trustees of Coleman County, Texas on the 6th day of September, 1937. At this time the White Chapel elementary school district had less than twenty scholastics in the seven grades taught.

"In part the copy of the minutes of the Coleman County School Board meeting of September 6, 1937 is as follows: 'The question of consolidating two elementary schools, Bowen and White Chapel of the Centennial Rural High School District No. 2 came up for consideration. Expressions were had regarding the matter from Mrs. Jennings, Mrs. Brown, Mr. Hamilton, Mr. Pierce, Mr. R. R. Nixon, and others. It was an unanimous belief of all that such a grouping would greatly increase the efficiency of their elementary school. So at the instance of the Bowen and White Chapel School District and with the concurrence of the Centennial School Board, the request asking consolidation of the two elementary schools for the ensuing year was granted.'

Hon. W. S. Baker, #2.

"For the school year 1939-40 it seems there will be 28 elementary pupils in the White Chapel elementary school district. A number of the patrons of this local elementary district desire to have their elementary school reestablished. The school board does not wish to do this, therefore I would like to have your opinion as to whether this local board is obliged to reestablish this school. Also, would the county board of school trustees have any authority in the matter?"

A careful search of the statutes relating to rural high school districts does not reveal any provision expressly requiring that elementary schools within the rural high school district must be reestablished after they have been discontinued or consolidated.

Article 2922f, Revised Civil Statutes, 1925, provides as follows:

"The county board of school trustees shall not have the authority to abolish or consolidate any elementary school district already established except upon the vote of a majority of the qualified electors residing in such elementary district; provided that when any school within an elementary district fails to have an average daily attendance the preceding year of at least twenty pupils it may be discontinued by the board of trustees of said rural high school district, and said district may be consolidated by the county board of school trustees with some other district or districts for elementary school purposes; provided that if there is more than one white or one colored school in such elementary school district the board of trustees of the said rural high school districts or an independent district, as the case may be, may consolidate such white or colored schools of the elementary district; and provided that the board of trustees of a rural high school district may transfer the pupils of one elementary district to another within the rural high school district, when the transfer is made from an elementary district of lower classification to one of higher classification; and provided further that the board of trustees of a rural high school district may transfer pupils from an elementary district to any other elementary district within the rural high school district upon application of the parents or guardian of the said pupils.

Hon. W. B. Baker, #3.

"Whenever one or more common school districts are annexed to a common school district or to an independent district under the provisions of Section 1, such common or independent district shall maintain elementary schools of such classification as the county board may designate in each district so annexed, for the same length of term provided for the schools of the said common school district or independent district. Provided such schools may be discontinued by the local board of trustees when the average daily attendance of any such schools for the preceding year is less than twenty."

You do not state in your letter that the board of trustees of the rural high school district ever discontinued the White Chapel elementary school district but we assume such is the case since the order of the county board recites that the purported consolidation was with the concurrence of the rural high school board. You will note that Article 2922f places the authority to discontinue an elementary school in the board of trustees of the rural high school district and not in the county board of school trustees. The county board of school trustees is authorized to consolidate such elementary districts under certain conditions with another district for elementary school purposes, but in this connection we call your attention to the order entered by the Coleman County School Board which does not purport to consolidate the two elementary schools except "for the ensuing year."

In *Chastain v. Kauldian* (T. C. A. 1930) 32 S. E. (2d) 235, the court tacitly approved an agreement that an elementary school would be reestablished or resumed under certain conditions, however, in that case the average attendance during the last preceding session was as much or more than twenty elementary pupils. We call this to your attention inasmuch as it is possible that some such agreement might have been made with reference to the White Chapel elementary school in view of the wording of the minutes of the county school board.

The power of the board of trustees of the rural district to discontinue an elementary school is not dependent upon the possibility of how many elementary pupils there will be in the school district for the current year but it is provided that "when any school within any elementary district fails to have an average daily attendance the preceding year of at least twenty pupils it may be discontinued by the board of trustees of said rural high school district."

Hon. W. B. Baker, #4.

Based upon the facts as submitted by you, it is our opinion that the local board of the rural high school district is not required to reestablish the White Chapel Elementary School District for the school year 1939-40.

We are further of the opinion that the county board of school trustees is not authorized to reestablish an elementary school within a rural high school district where the board of trustees of said rural high school district has discontinued such elementary school as provided by law.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Cecil C. Cammack
Cecil C. Cammack
Assistant

CCC:N

APPROVED AUG 31, 1939

Frederick Mann

ATTORNEY GENERAL OF TEXAS

